IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO : 2723 of 1995

Between:

1 Vuyyuru Gaddiyya S/o Tirupathayya
Revenue Section, T.T.D.,
Tirupati.
2 Indupalli Balasundaram S/o Ramayya
Revenue Section, Tirumala Tirupati Devasthanams,
Tirupati.

..... PETITIONER(S)

AND

1 Tirumala Tirupati Devasthanams, Rep. by its Executive Officer,
T.T.D., Tirupati.
2 Assistant Executive Officer, Tirumala Tirupati Devastnams
Tirupati.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue any Writ, Order or direction particularly a Writ in the nature of MANDAMUS directing the Respondents to regularize the Petitioners services with effect from the date on which the other N.M.Rs as on 1971 and 1975 were regularized with all consequential and attendant benefits of seniority and other monitory benefits, and to pas such other relief or reliefs as this Hon'ble Court may deem fit just and necessary in the circumstances of the case.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondent No.: MR.G.JAGADEESWAR(SC FOR T.T.D)

The Court made the following :

ORAL ORDER:

Both the Petitioners were working as watchmen in the mango garden of Sri Miriyala Venkateswara Rao, Jamindar of Nuzvid, who gifted two bits of mango garden to Lord Sri Venkateswara, Tirupati by way of gift deed dated 7-10-1971. The petitioners continued to work in the said garden till their services were regularized by the Tirumala Tirupati Devastanams (TTD), vide proceedings dated 25-4-1988.

It is the case of the petitioners that while the T.T.D regularized the services of all casual workmen who were in the service of T.T.D between1-5-1975 and 31-12-1975, in terms of G.O.Ms.No.146 dated 4-2-1985 and even prior thereto there was a phase of regularization, their cases for regularization were not considered only because they were working in isolated places far away from the head quarters of T.T.D. The petitioners contend that their services were regularized only with effect from 25-4-1988 along with N.M.Rs. who were subsequently recruited up to 31-3-1984 and that they should not be allowed to suffer loss of seniority and other benefits for the fault of the T.T.D. administration. They contend that it was incumbent on theT.T.D to regularize their services on par with NMRs who were in service as on 7-1-1971 or at least as on 1-3-1975 and consequently they ought to have been extended the benefit of retrospective regularization. It is their case that despite various representations and persuasions, the TTD did not consider their grievance. Hence this writ petition.

A Counter affidavit is filed on behalf of the TTD wherein it is stated that three watchmen, including both the petitioners herein, were absorbed by the T.T.D on fixed pay of Rs.60/- per month up to 28-2-1975 and that they were permitted to draw time scale of pay of Rs.740 –1150 with effect from 29-4-1988 in terms of the order of this Court in W.P.M.P.No.6352 of 1988 in W.P.No.5022 of 1988. It is the case of the respondent T.T.D that the services of NMRs who were working during the period from 1-1-1975 to 31-12-1978 were absorbed and regularized in terms of GoMs.No.1458 dated 19-9-1981 and G.O.Ms.No.146 dated 4-2-1985 in the available vacancies on the date of issuance of absorption order. It is stated in the counter affidavit that on the basis of proposals of the T.T.D, the Government had accorded permission to absorb 349 employees, working on NMR basis from 1-1-1975 to 31-12-1978, in G.O.Ms.No.1458 dated 19-9-1981 and that the Government had not created any new posts in TTD to absorb persons of these categories other

than those included in the list annexed to the G.O. Reference is made in the counter affidavit to G.O.Ms.No.296 dated 19-4-1988 in support of the contention that the Government had created 1134 posts under the said G.O. and had granted permission to the T.T.D to absorb NMR employees engaged during the period 1-1-1979 to 31-3-1984, and that the services of some of NMRs/casual labourers who worked during the period 1-1-1975 to 31-12-1978 were also included in the list covered by G.O.Ms.No.296 dated 19-4-1988, only on humanitarian grounds. It is stated on behalf of the T.T.D that the petitioners are not entitled for absorption under G.O.Ms.NO.1458 dated 19-9-1981 as a matter of right. It is the case of the TTD that while the services of persons engaged on NMR basis up to 31-12-1978 were regularized without insisting on the rule of reservation, later on it was noticed that some of the persons working as NMRs prior to 31-12-1978 were omitted, while issuing absorption orders, and hence the T.T.D requested the Government, vide letter dated 2-2-1987, to accord permission to absorb those employees also duly relaxing the ban and the rule of reservation . On permission being accorded by the Government for absorption of these NMRs, persons engaged during the period 1-1-1979 to 31-3-1984 and a few others engaged prior thereto were regularized under G.O.Ms.No.296 dated 19-4-1988. Under G.O.Ms.No.344 dated 9-5-1988, 1135 posts were sanctioned for absorption of persons covered by G.O.Ms.No.296 dated 19-4-1988, as a result of which services of several employees, including both the petitioners herein, were regularized with effect from 19-4-1988 in these newly created posts.

While it is no doubt unfortunate that the petitioners, who admittedly, were entitled for absorption on par with N.M.Rs. who worked during the period 1-1-1975 to 31-12-1978, in pursuance of G.O.Ms.No.1458 dated 19-9-1981 and G.O.Ms.No.146 dated 4-2-1985 were not so absorbed, the fact however remains that absorption of those N.M.Rs. was effected, on posts being sanctioned by the Government of Andhra Pradesh. All the sanctioned posts were filled up by those N.M.Rs. whose names were found in the list submitted by the TTD to the Government. The said list did not contain the names of the petitioners.

In the absence of posts being sanctioned by the State Government, TTD was disabled from absorbing/regularizing the services of the petitioners herein and it was subsequently when 1135 posts were created under G.O.Ms.No.344 dated 9-5-1988 that the petitioners were also absorbed with effect from 9-4-1988. The petitioners

contend that the T.T.D is to blame for this unfortunate situation. The fact, however, remains that the petitioners are equally to blame for not having chosen to ventilate their grievance earlier. In the absence of sanctioned posts being available earlier, the petitioners are not entitled to claim absorption retrospectively.

The power to sanction posts, for regularization of N.M.Rs. in the service of T.T.D, is conferred under the Rules on the Government of Andhra Pradesh which is not even arrayed as a respondent in this writ petition. Creation or absorption of posts are matters of executive policy and no direction can, under normal circumstances, be given to the executive to create posts. In any event more than two decades having elapsed since G.O.Ms.No.1458 dated 19-9-1981 and G.O.Ms.No.146 dated 4-2-1985 were issued, no direction can now be issued for retrospective sanction of additional posts to consider the case of the petitioners herein for retrospective regularization from 1985.

Learned counsel for the petitioners contends that since admittedly N.M.Rs juniors to the petitioners, who worked during the period 1-1-1979 to 31-3-1984, were absorbed prior to the petitioner what all the T.T.D is required to do is to place the petitioners in sanctioned posts under G.O.Ms.No.1458 dated 19-9-1981 and G.O.Ms.No.146 dated 4-2-1985 and treat the two junior most employees, whose services were regularized under these two G.,O,. to have been regularized subsequently pursuant to G.O.Ms.No.396 dated 19-4-1988 and G.O.Ms.No.344 dated 9-5-1988.

While this submission seems attractive, in the absence of those two junior employees being arrayed as respondents in the writ petition, no such relief can be granted in favour of the petitioners herein.

The writ petition fails and the same is dismissed. This order shall not, however, preclude the petitioners from submitting a fresh representation to the respondents and for the respondents to consider the same in accordance with law.

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14-6-2005

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To

1 The Executive Officer Tirumala Tirupati Devasthanams,
T.T.D., Tirupati.
2 Assistant Executive Officer, Tirumala Tirupati Devastnams
Tirupati.

3. Two C.D. copies